

Trial centers on students' transitory lives

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SANTA CRUZ — It's not easy being a student in Santa Cruz. Housing is high-priced and short-term and in short supply. Meals are catch-as-catch-can, wherever and whenever. Landlords sell houses out from under you — or at least talk about it — roommates play weird music, academic requirements change without notice, and there isn't much that's permanent.

This, at least, is the general story unfolding from the witness stand in the City Council challenge now under way in Superior Court Judge Harry Brauer's courtroom.

Attorney Tim Morgan and John Bohrer, working for the 22 voters who charge that more than 450 voters cast illegal ballots on campus last November, have endeavored to show the challenged voters did not legally live on campus when they cast their ballots in the four campus precincts last November.

With one or two exceptions, there is no dispute from the defense that the challenged voters did not live on campus.

But Mitchell Page and Robert Taren, lawyers for the defense, have been eliciting from the witnesses the tangled tale of where students live during their academic career, and where they consider their permanent home in this county to be.

Morgan contends ballots had to be cast in the precinct where the voter actually lived 29 days before the election. But the defense says that if the voters did not intend to live permanently in the precinct where they resided, then the last permanent address they had — which he contends was campus — is legal to use for voting.

So the questions attorneys asked Monday focused on where, when — and if — the 457 challenged voters have set up permanent residences, or "domiciles," in legal language.

A "domicile" is where "habitation is fixed," the Elections Code states, where the person intends to remain or return. A person can have several residences, but only one domicile, the code states.

A few witnesses, such as former college provosts John Dizikes and Helene Moglen, lived on campus for some years then moved off to houses they purchased. They had no intention of returning, they testified, and explained their cases simply — they neglected to change their addresses, as one neglects to change the address on one's driver's license after a move.

But students or ex-students tell of odysseys that would confuse a homing pigeon. Some have changed houses after each 10-week quarter. A few have spent summers in Berkeley, or India, or Alaska, and returned to sleep in friends' houses, the woods on campus or a car until they could find a room. Some have lived on campus, moved off and back again up to three times. Some say they hoped to return to campus, some say they had no intention of returning. Some have never lived on campus. One lives in Felton, another in Live Oak.

One testified he graduated in 1982, and now attends Cabrillo and West Valley colleges. He told the court he returns to UCSC for "recreation and voting," said Morgan.

But many say most of their time is spent on campus, and their "political, social and economic involvement" with the county at UCSC. That is what they consider their permanent address through the vicissitudes of student life, their "most settled connection."

Attorneys ask what address they use on their identification, where they eat their meals, if they pay rent, if the phone at their residence is in their name, how long they have lived off campus, do they intend to return, why they registered on campus and if they intend to make Santa Cruz a permanent home.

Two questions Morgan and Bohrer have been told they cannot ask are how the

witnesses voted, and whether the male witnesses have registered for the draft. Those questions are irrelevant to the case, Brauer has said. Bohrer also presses each witness on whether he or she was coached in their testimony workers in the defense camp. All have denied they were told what to say on the stand.

From all this, Judge Brauer must decide what the intent of the voters was. He has said he will hear all the evidence, and then make his decision, rather than deciding on a case-by-case basis.

Resting on his decision is the makeup of

the City Council. If the challenge stands, progressive councilmember Jane Weed could lose her seat to Bill Fieberling, a candidate on the moderate slate. Weed finished fourth, ahead of then-mayor Bruce Van Allen and Fieberling. Weed and Van Allen drew nine votes for every one cast for Fieberling in the four campus precincts. If the votes are subtracted from the totals in that proportion, as Morgan has asked, Fieberling will take Weed's seat, and give the 4-3 council majority to the moderates.

Testimony was to continue today.